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Regulating Drones in Chicago: A Template for Local Legislation

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Introduction. On November 18, 2015, the City of Chicago made its mark in the annals of history by becoming the first major American city to adopt a comprehensive ordinance (the "Chicago Drone Ordinance" or "CDO") regulating the use, for hobby or recreational purposes, of unmanned aerial systems, commonly known as drones, within city limits. This paper briefly describes the legislative history of the CDO, its key components, and the thought processes that shaped its final form and wording, in the hope that it can serve as a model for other cities interested in adopting similar legislation.

Legislative history. On July 29, 2015, Aldermen Edward Burke and Scott Waguespack of the Chicago City Council co-sponsored an ordinance to regulate where drones can fly in Chicago. The Ordinance was referred to the City Council Committee on Aviation, where a hearing was held on November 12, 2015. A Substitute Ordinance As Amended was passed unanimously in committee by a *viva voce* vote of its members. The Chicago City Council passed the Substitute Ordinance As Amended on November 18, 2015 by a vote of 48:0, with no dissenting votes. (*See* attached "Substitute Ordinance As Amended"). The Chicago Drone Ordinance went into full force and effect on December 19, 2015.

Legal/Political Backdrop. When the CDO was initially introduced by its aldermanic sponsors in July of 2015, the Federal Aviation Administration ("FAA") required persons who operated drones for commercial purposes in the National Airspace System to obtain express permission to do so from the FAA in the form of a grant of exemption under Section 333 of the *FAA Modernization and Reform Act of 2012,* or a type and airworthiness certificate under 14 CFR §21.25(a)(2) and §21.185. By way of contrast, persons operating drones for hobby and recreational purposes were not subject to mandatory federal operating regulations. Instead, the FAA recommended that these operators follow the Model Aircraft Operating Standards set forth in FAA Advisory Circular 91-57A. While these voluntary compliance standards were well known by model aircraft aficionados, who, for the most part, were members of long-standing and well-organized model aircraft clubs, such as those led by the Academy of Model Aeronautics, they were less well known to average citizens, who were purchasing drones – often equipped with cameras – for their own personal use in growing numbers. At the time, it was widely estimated that consumers nationwide would purchase, during the 2015 Holiday Season alone, more than 700,000 drones as gifts or for their own personal use.

Even among drone enthusiasts, a perception was taking hold in Chicago, as one commentator put it, that "[i]t's basically the Wild West"[1] when it comes to drones. This perception was reinforced by two high-profile incidents involving recreational drone use in Chicago. On August 8, 2014, a man flew a remote-controlled, two-pound, DJI Phantom 2 Quadcopter drone dangerously low over a crowd of thousands of fans attending the Lollapalooza music festival in Chicago's Grant Park. The following year, on July 21, 2015, a drone crashed into the runway at Chicago's Midway Airport, causing a security breach, while the U.S. National Guard was conducting a Blackhawk helicopter training mission there. And, nationally, a series of troubling incidents involving the use of drones had occurred (identified in the CDO's "Whereas Clauses") that further fueled the belief that the time had come to codify common sense principles to govern the use of recreational drones in Chicago; to do so in manner that would put Chicago's residents unequivocally on notice about what is (and what is not) legally permissible under Federal, State and local law when it comes to operating a drone in city airspace; and to better enable the City to take meaningful enforcement action against violators.

Prior to the final vote on Chicago's Drone Ordinance, Alderman Edward Burke recalled a series of near misses involving drones, noting that "pilots nationally report over 100 drone sightings every month" and that "[m]ore and more consumers are purchasing camera-equipped drones on the Internet for anywhere from $20 to $1,000. "It's clear," he said, "that government regulations have simply not kept pace with drone technology" and that "Chicago simply needs local laws in place to authorize the City to take action against those who operate drones recklessly and threaten public safety."[2] This sentiment was echoed by Alderman Scott Waugespack, who observed that drone use is "growing exponentially," adding that, "if government doesn't regulate certain aspects, or at least attempt to, it can get out of control very quickly."[3]

The Introduced Ordinance. The Ordinance that was originally introduced in the Chicago City Council contemplated the creation of a city-based registration

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[1] Justin Peters, *"Chicago Becomes the First Big City to Enact Drone Regulations; Nails Them",* Future Tense (November 20, 2015) ,http://www.state.com/. . . /Chicago_enacts_drone_regulations_that_are_really . . .

[2] Fran Spielman, *Drone Regulations Fly with City Council*, Chicago Sun-Times (November 18, 2015) <http://www.chicago.suntimes.com/chicago . . . chicago_could_tighten_rules. . .

[3] "*Chicago Drone Flight Restrictions Advance",* Chicago Tribune, December 11, 2015

scheme for drones, which was patterned after the registration scheme for non-commercial drones that the FAA was considering at the time, but had not yet adopted. As originally proposed, any person who wanted to fly a drone in Chicago would be required, prior to operating it, to: (1) register the drone with the City of Chicago's Department of Aviation; (2) identify its make, model and serial number; (3) disclose whether it had previously been registered with the Department by a prior owner or lessee; (4) provide personal information about its owner, and, if applicable, about its lessee, including such person's name, address and telephone number; (5) submit proof of insurance; and (6) pay an annual registration fee of $50. Upon receipt of a completed application, the Ordinance required the City's Department of Aviation to provide the drone's owner with a non-transferable, proportionally-sized, lightweight, tamper-proof and weather-proof licensing tag, containing a unique identification number, which the owner was then required to securely affix to the drone in a conspicuous place prior to operating it in city airspace.

In addition to registration and insurance, the original Ordinance placed ten restrictions on where drones could be flown in Chicago. The original ten restrictions prohibited any person from operating a small unmanned aircraft in city airspace:

(1) for the purpose of conducting surveillance, unless expressly permitted by law;

(2) within five miles of an airport;

(3) that is equipped with a firearm or other weapon;

(4) with intent to use such small unmanned aircraft or anything attached to such small unmanned aircraft to cause harm to persons or property;

(5) within one-quarter mile of any open air assembly unit, school, hospital or place of worship;

(6) at any altitude higher than four-hundred feet above ground level;

(7) outside the line of sight of the operator;

(8) while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as those terms are defined in 625 ILCS 5/11-501, as amended;

(9) whenever weather conditions would impair the operator's ability to do so safely; or

(10) between the hours of 8:00 p.m. and 8:00 a.m.

As discussed below, all ten restrictions were retained in the CDO that was eventually adopted (*see* attached "Substitute Ordinance as Amended") – albeit, in most cases, in slightly modified form, and six additional restrictions were added. It is worth noting in this regard that the original Ordinance explicitly excluded from its coverage commercial drones operating in city airspace pursuant to, and in accordance with, a valid FAA certificate of waiver, certificate of authorization or airworthiness certificate, as well as drones operated in locations designated for such use by the Chicago Park District. As discussed below, these two carve outs were also retained – again, in slightly modified form – in the CDO that was finally adopted.

In addition, the original Ordinance imposed hefty fines on violators of not less than $500 nor more than $5,000 for each offense, while also allowing for the possibility of incarceration for up to 180 days for each offense, or both fines and incarceration. It authorized law enforcement personnel to seize any drone that was being operated in violation of the Ordinance, accompanied by notice and a prompt post-deprivation administrative hearing for the purpose of reviewing the appropriateness of the seizure, as well as a daily $20 fee to cover any cartage and storage costs incurred by the City in connection with the seizure. If, following an administrative hearing, the hearing officer determined that no violation of the ordinance had occurred, the Ordinance required the City to return the drone to its owner without charge. The fine structure and seizure processes were retained unmodified in the CDO that was finally adopted.

The Final Chicago Drone Ordinance. Because the original Ordinance was an aldermanic initiative, following its introduction it was referred to the City of Chicago Department of Law ("DOL") for review. The primary purpose of that review was to ensure that the proposed operating restrictions were consistent with the statutory requirements set forth in the *FAA Modernization and Reform Act of 2012*; were in line with existing FAA regulations for model aircraft, as set forth in

FAA *Advisory Circular AC No. 91-57A (September 2, 2015) (Model Aircraft Operating Standards)*; and were compatible with the FAA's *Interpretation of the Special Rule for Model Aircraft* [Docket No. FAA-2014-0396], as well as with the FAA's *Know Before You Fly Campaign.* As a result of DOL's review, a Substitute Ordinance was prepared for consideration, which amended the introduced Ordinance, as follows:

- The proposed city registration requirement for drones was deleted from the CDO when DOL learned that the FAA was poised to announce the creation of a federal registration scheme for hobby and recreational drones. In fact, on December 14, 2015, the FAA announced that non-commercial drones of a certain weight must be registered with the FAA by February 19, 2016.

- The definition of the term "small unmanned aircraft" (a.k.a. "drone") was amended to address two ambiguities in that definition. The original Ordinance replicated the definition of a small unmanned aircraft set forth in§331(8) of the *FAA Modernization and Reform Act of 2012*, which defined the term as "an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft." However, during its review process, DOL discovered that the FAA had identified two ambiguities in the statutory definition, which required clarification. For that reason, DOL added a clarifying prong to the definition that did two things: first, it stipulated that, in order to qualify as a hobby or recreational drone, the small unmanned aircraft must weigh less than 55 pounds – the cut-off weight used by the FAA to distinguish model aircraft (which are not regulated by the FAA) from other types of unmanned aircraft (which are regulated by the FAA); and second, it amended the definition to clarify that the weight of "less than 55 pounds" includes the weight of any payload or fuel. These refinements were made in response to several conclusions reached by the FAA in its *Interpretation of the Special Rule for Model Aircraft*, namely, that "Congress intended for the 55-pound limit to mean the weight of the aircraft at the time of operation"; that "[i]f the weight of the aircraft alone was the determining factor then it could conceivably be loaded with equipment or payload increasing the weight of the aircraft at time of takeoff well in excess of 55 pounds, thereby increasing the risk of harm should the operation not proceed as planned"; that "[t]he weight at the time of operation is also consistent with the FAA's designation of small or large aircraft which is determined by an

aircraft's maximum certificated take off weight"; that "Congress' recognition of the increased risk posed by heavier aircraft is demonstrated by the more stringent requirements for aircraft heavier than 55 pounds in the statute; and that "[a]ccordingly the FAA interprets this provision to mean the weight of the aircraft at the time of the operation must not exceed 55 pounds, including the weight of any payload and fuel." (*See* Department of Transportation, Federal Aviation Administration, 14 CFR Part 91 [Docket No. FAA-2014-0396, *Interpretation of the Special Rule for Model Aircraft,* pp. 12-13].

- The operating regulations for drones were amended to clarify that the use of drones in Chicago for "hobby and recreational purposes" is permitted, so long as the drone is operated in conformity with all other requirements of the CDO. A definition of the term "hobby or recreational purposes" was added to the CDO, which defined the term to mean "a pursuit engaged in for relaxation, and not for business purposes and not for compensation or hire." The definition was patterned after language used in the FAA's Notice of Interpretation of the Special Rule for Model Aircraft, 14 CFR Part 91 (Docket No. FAA-2014-0396).

- A new requirement was added to the operating regulations, which prohibits persons from operating a drone "directly over any person who is not involved in the operation of the small unmanned aircraft, without such person's consent." This prohibition was added in an effort to avoid a repeat of the situation that had occurred in Chicago's Grant Park, whereby an individual, who was ostensibly operating his drone purely for hobby and recreational purposes, flew the drone directly over the heads of unsuspecting persons, who had assembled there for a concert.

- A new requirement was added to the operating regulations, which prohibits persons from operating a drone "over property that the operator does not own, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation." This requirement was added to address the privacy, trespass and nuisance concerns of Chicago's citizens.

- The operating regulation prohibiting persons from operating a drone "at any altitude higher than 400 feet above ground level" was retained unchanged.

- The operating regulation that "prohibits persons from flying outside the visual line of sight of the operator" was amended to bring it in line with the FAA's interpretation of its line of sight requirement, a requirement which had apparently generated many questions about what the requirement does or does not allow. To eliminate any ambiguity over the meaning of the phrase, the CDO added a sentence clarifying that the term "line of sight" requires a drone operator to "use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to maintain at all times an unobstructed view of the small unmanned aircraft, without the use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying goggles, goggles designed to provide a first person view from the from the model or similar devices."

- The operating regulation prohibiting persons from operating a drone "within five miles of any airport" was retained unchanged.

- A new requirement was added to the operating regulations that prohibits persons from operating a drone "in a manner that interferes with, or fails to give way to, any manned aircraft." This requirement was added to bring the CDO in line with the operating standards proposed by the FAA for model aircraft operators, as set forth in Advisory Circular 92-57, Model Aircraft Operating Standards (June 9, 1981).

- The operating regulation prohibiting persons from operating a drone "between the hours of 8:00 p.m and 8:00 a.m." was amended to prohibit operation "between dusk and dawn." This change was made in response to a criticism of the original ordinance, made by Anthony LaRosa, the co-founder of Aerical Vision Chicago, who commented on *Chicago Tonight*, that the ordinance's proposed no-fly time between 8:00 a.m. and 8:00 p.m is "strange" given the fact that during the summer months, it is still sufficiently light at 8:00 p.m. to enable a person to operate a drone within his or her line of sight, and suggesting that "a dusk-to-dawn rule" is more in keeping with FAA regulations.[4]

[4] "*Chicago Could Tighten Rules on Drones"*, Chicago Tonight (August 5, 2015) <http://www.chicagotonight.wttw.com

- The operating regulation prohibiting persons from operating a drone "whenever weather conditions impair the operator's ability to operate the small unmanned aircraft safely" was retained unchanged.

- The operating regulation prohibiting persons from operating a drone "within one-quarter mile" of any open air assembly unit, school, hospital or place of worship was amended to eliminate the "one-quarter mile restriction" and to substitute in its place a prohibition on operating a drone "over" such a location, and "without the property owner's consent", and "subject to any restriction that the property owner may place on such operation." The list of prohibited locations was amended to add "school yards" and "prisons or police stations."

- The operating regulation prohibiting persons from operating a drone while under the influence of alcohol, drugs or intoxicating compounds was retained unchanged.

- The operating regulation prohibiting persons from operating a drone that is equipped with a firearm or other weapon was retained unchanged.

- The operating regulation prohibiting persons from operating a drone with the intent to use it or anything attached to it to cause harm to persons or property was retained unchanged.

- The operating regulation prohibiting persons from operating a drone for the purpose of conducting surveillance, unless expressly permitted by law, was retained unchanged. However, the definition of the term "surveillance" was amended to clarify that "surveillance" is not simply limited to gathering images, sounds, data or other information about an individual's private affairs or personal concerns, but also includes gathering information, without a person's permission and in a manner that is offensive to a reasonable person, about a person's business activities, and to further clarify that prohibited surveillance can occur even in the absence of a physical trespass onto such person's property, and even when the property in question is not owned, but is simply leased or otherwise lawfully occupied, by the person under surveillance.

- Two "catch all" provisions were added to the ordinance, prohibiting persons from operating a drone in a reckless or careless manner or in violation of any Federal or State law.

- The CDO was amended to add three clarifications, which were included under the heading "Construction of Section." The primary purpose served by these clarifications was to ensure that the Ordinance would not run afoul of any applicable Federal preemption or legal requirement, or conflict with the Illinois Freedom from Drone Surveillance Act, which authorizes the use of drones by Illinois law enforcement agencies under certain limited circumstances. A secondary purpose was to put persons referencing the CDO on notice that drone use in Chicago is also governed by Federal and State law. The clarifications make it clear that nothing in the CDO shall be construed: (1) to prohibit, limit or otherwise restrict any person who is authorized the FAA to operate a drone in city airspace from conducting such operation in accordance with authority granted by the FAA; or (2) to authorize the operation of a drone in city airspace in violation of any Federal statute or rule promulgated thereunder; or (3) to prohibit the use of drone by a law enforcement agency in accordance with the Illinois Freedom from Drone Surveillance Act.

- At the request of the utility industry, a new operating regulation was added to the CDO prohibiting the use of drones for hobby and recreational purposes within 500 feet of a water intake or electric generating facility, substation or control center, or within 100 feet of an electric transmission facility, or within 25 feet of an electric distribution facility or any overhead wire or cable for transmission of sounds, signals, heat, light, power or data upon or along the public way without the facility or equipment owner's consent and subject to any restrictions that such owner may place on such operation. The requirement pertaining to overhead wires and cables was included to clarify that recreational drones cannot be operated in the city's alleys, where telephone poles and light poles to which multiple wires are attached are commonly located.At the committee hearing, a Substitute Ordinance as Amended was introduced to address a perceived imbalance in the wording of the "Whereas Clauses", which emphasized the risks associated with drone use without mention of their positive impact. As a result:

- The Whereas Clauses to the CDO were amended to reflect the fact that while drone use in congested urban areas can be problematic, the responsible and safe use of drones is a popular, exciting and fun recreational activity that promotes technological innovation, economic growth and job creation by inspiring a whole new generation of entrepreneurs and innovators to pursue careers in this field and in related high-tech industries.

As mentioned earlier, the Substitute Ordinance as Amended was adopted without dissent by the Chicago City Council on November 18, 2015. Given the CDO's emphasis on regulating the use of drones for hobby and recreational purposes, the Department of Law was confident at the time that the Chicago Drone Ordinance passed legal muster. However, because federal law pertaining to the use of drones for hobby or recreational purposes is continually evolving, the CDO was passed by the Chicago City Council subject to the understanding that it would need to be carefully monitored by DOL going forward to ensure its continued compatibility with Federal and State law requirements.

S U B S T I T U T E

O R D I N A N C E

A S

A M E N D E D

WHEREAS, The City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, Pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, A recent *Washington Post* investigation found that law enforcement agencies, universities and other registered drone users have reported 23 accidents and 236 unsafe incidents since November 2009; and

WHEREAS, Chicago has witnessed an increase in "flyaways", which occur when drones go rogue and fly off from their users; and

WHEREAS, Last August, Federal Aviation Administration (FAA) officials criticized a Chicago man for being "reckless and careless" after he sent a drone over the Lollapalooza music festival and posted videos from it on You Tube; and

WHEREAS, Videos have recently surfaced of a handgun-firing drone built by an
18-year-old Connecticut student for a college class; and

WHEREAS, On May 5, 2014, a DJI Phantom 2 Quadcopter crashed into the 30th floor of the Metropolitan Square building, the tallest building in St. Louis, Missouri; and

WHEREAS, Pilots have reported dozens of cases in which drones flew too close to their aircraft, and the FAA has stated that our Nation's air-traffic system is not equipped to handle thousands of small devices flying at low altitudes; and

WHEREAS, Chicago's airspace is among the busiest in the world. In 2014, Chicago-O'Hare International Airport handled nearly 882,000 flights and 70 million passengers, while Chicago Midway Airport handled approximately 250,000 flights and 21 million passengers; and

WHEREAS, On July 21, 2015, a drone crashed into the runway at Chicago Midway Airport while the United States National Guard was conducting a Blackhawk training mission there, causing a breach of security at the airport; and

WHEREAS, Drones can be equipped with highly sophisticated surveillance technology that threatens privacy; and

WHEREAS, Last December, the FAA launched a public awareness campaign urging novice operators to pay attention to safety and to avoid reckless and unsafe activities, such as flying too close to passenger planes, buzzing crowds or operating drones or unmanned aircraft while under the influence of alcohol or drugs; and

WHEREAS, The prevalence and unregulated use of drones throughout the City of Chicago poses a threat to the public health, safety and welfare and has created public health, safety and welfare concerns, including, but not limited to, privacy, nuisance and trespass concerns; and

WHEREAS, On the other hand, responsible and safe drone use is an increasingly popular recreational activity, particularly among amateur photographers, and promotes technological innovation, economic growth and job creation; and

WHEREAS, The use of drones for hobby and recreational purposes will enable Chicagoans of all ages to familiarize themselves with this exciting new technology, and will undoubtedly inspire a whole new generation of entrepreneurs and innovators to pursue careers in this field and in related high-tech industries that are flourishing in Chicago; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated into SECTION 2 of this ordinance and made part thereof as though fully set forth therein.

SECTION 2. Chapter 10-36 of the Municipal Code of Chicago is hereby amended by inserting a new Article IV, and a new Section 10-36-400, as follows:

ARTICLE IV. SMALL UNMANNED AIRCRAFT

10-36-400 Small unmanned aircraft.

(a) *Definitions.* As used in this section:

"Aircraft" means any contrivance invented, used or designed to navigate or fly in the air.

"City airspace" means the airspace above the land, water and waterways within the jurisdiction of the city.

"Firearm" has the meaning ascribed to the term in section 8-20-010.

"Hobby or recreational purposes" means a pursuit engaged in for relaxation, and not for business purposes and not for compensation or hire.

"Open air assembly unit" means any structure, enclosed area or other demarcated space used for the assembly of persons in the open air, including, but not limited to, amusement parks, stadiums, athletic fields, automotive speed ways, aviation fields, band stands, beach enclosures, grandstands, observation platforms, outdoor public swimming pools, outdoor theaters, race tracks, reviewing stands, street festivals or parade routes.

"Operate" means to pilot, steer, direct, fly or manage a small unmanned aircraft through the air whether from within the aircraft or remotely. The term "operate" includes managing or initiating a computer system that pilots, steers, directs, flies or manages a small unmanned aircraft.

"Public aircraft" has the meaning ascribed to the term in Section 40102 of Title 49 of the United States Code.

"Small unmanned aircraft" means an aircraft that (1) is operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of the operation, including the weight of

any payload or fuel. The term "small unmanned aircraft" does not include "toy aircraft" or "public aircraft" as defined herein.

"Surveillance" means the gathering, without permission and in a manner that is offensive to a reasonable person, of visual images, physical impressions, sound recordings, data or other information involving the private, personal, business or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy, solitude or seclusion of another person, business or entity, regardless of whether a physical trespass onto real property owned, leased or otherwise lawfully occupied by such other person, business or other entity, or into the airspace above real property owned, leased or otherwise lawfully occupied by such other person, business or other entity, occurs in connection with such surveillance.

"Toy aircraft" means (1) a glider or hand-tossed small unmanned aircraft that is not designed for and is incapable of sustained flight; or (2) a small unmanned aircraft that is capable of sustained flight and is controlled by means of a physical attachment, such as a string or wire.

"Weapon" means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(b) *Operating regulations.* Except as otherwise provided in subsection (c) of this section, no person shall operate any small unmanned aircraft in city airspace:

(1) except for hobby or recreational purposes only and in conformity with this section;

(2) directly over any person who is not involved in the operation of the small unmanned aircraft, without such person's consent;

(3) over property that the operator does not own, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;

(4) at an altitude higher than 400 feet above ground level;

(5) outside the visual line of sight of the operator. The operator shall use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to maintain at all times an unobstructed view of the small unmanned aircraft, without the use of vision-enhancing devices, such as

binoculars, night vision goggles, powered vision magnifying devices, goggles designed to provide a "first person view" from the model or similar devices;

(6) within five miles of any airport;

(7) in a manner that interferes with, or fails to give way to, any manned aircraft;

(8) between dusk and dawn;

(9) whenever weather conditions impair the operator's ability to operate the small unmanned aircraft safely;

(10) over any open air assembly unit, school, school yard, hospital, place of worship, prison or police station, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;

(11) within 500 feet of any water intake facility or any electric generating facility, substation or control center, or within 100 feet of any electric transmission facility, or within 25 feet of any electric distribution facility or of any overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public way within the city, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation;

(12) for the purpose of conducting surveillance, unless expressly permitted by law;

(13) while under the influence of alcohol, or other drug or drugs, intoxicating compound or compounds or any combination thereof, as those terms are defined in 625 ILCS 5/11-501, as amended;

(14) that is equipped with a firearm or other weapon;

(15) with intent to use such small unmanned aircraft or anything attached to it to cause harm to persons or property;

(16) in a reckless or careless manner; or

(17) in violation of any Federal or State law.

(c) *Construction of section.*

` (1) *Operations authorized by the FAA – Exception.* Notwithstanding the prohibitions set forth in this section, nothing in this section shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the Federal Aviation Administration to operate a small unmanned aircraft in city air space, pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operation(s) in accordance with the authority granted by the Federal Aviation Administration.

(2) *Operations prohibited by the FAA – Clarification.* Nothing in this section shall be construed to authorize the operation of any small unmanned aircraft in city airspace in violation of any Federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.

(3) *Operations authorized by the State of Illinois – Exception*. Notwithstanding the prohibitions set forth in this section, nothing in this section shall be construed to prohibit the use of a drone by a law enforcement agency in accordance with Section 15 of the Freedom from Drone Surveillance Act, codified at 725 ILCS 167/1 et seq., or its successor provision.

(d) *Violation – Penalty*. Any person who violates this section or any rule promulgated thereunder shall be fined not less than $500.00 nor more than $5,000.00 for each offense, or may be incarcerated for a term not to exceed 180 days, or both. Each day that a violation continues shall constitute a separate and distinct offense.

(e) *Seizure for unlawful use.* If the mayor, superintendent of police, commissioner of aviation, fire commissioner or their duly authorized enforcement officers or designees have a reasonable basis to believe that any small unmanned aircraft is or has been operating in violation of this section, said small unmanned aircraft may be seized by such duly authorized enforcement official, followed by an opportunity for an administrative hearing, with notice to the owner within seven calendar days of such seizure, for the purpose of reviewing the appropriateness of the seizure, and shall be held by the city until such time that the owner of such small unmanned aircraft reimburses the city for the actual cartage costs incurred in connection with the seizure and pays to the city $20.00 for each day, or part of a day, that the small unmanned aircraft is in storage. If criminal charges involving the use, condition or operation of the small unmanned

aircraft are pending, the small unmanned aircraft shall be held until disposition of the criminal charges. If it is determined at an administrative hearing, by a preponderance of evidence, that the seized small unmanned aircraft was not operated in violation of this section, such small unmanned aircraft shall be returned to its owner without charge.

(f) *Rules*. The commission of aviation, in consultation with the corporation counsel, is authorized to promulgate rules necessary or appropriate to implement this section. Such rules shall be posted by the commissioner on the City of Chicago's rule web portal.

SECTION 3. Section 10-36-380 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

10-36-380 Helicopter operations – Prohibitions – Exception for governmental entities.

(Omitted text is unaffected by this ordinance)

(d) As used in this section, the term "other rotary wing aircraft capable of vertical landing and takeoff" does not include small unmanned aircraft, public aircraft or toy aircraft, as defined in section 10-36-400.

SECTION 4. This ordinance shall take full force and effect 10 days after its passage and publication.